

**Final Order Denying Refund: 01-20191585
Individual Income Tax
For Tax Year 2015**

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HOLDING

Husband and Wife are not entitled to a refund of individual income tax because the refund request was filed outside the three-year statute of limitations.

ISSUE

I. Individual Income Tax - Refund Statute of Limitations.

Authority: IC § 6-3-4-3; IC § 6-8.1-6-2; IC § 6-8.1-6-3; IC § 6-8.1-9-1; *Indiana Dep't of State Revenue, Inheritance Tax Div. v. Estate of Smith*, 460 N.E.2d 1263 (Ind. Ct. App. 1984).

Taxpayers argue that their claim for a refund of individual income tax should not be barred by the three-year statute of limitations.

STATEMENT OF FACTS

Husband and Wife ("Taxpayers") are individuals who reside in Indiana. On September 26, 2019, Taxpayers filed their 2015 individual income tax return requesting a refund of the overpayment. The Indiana Department of Revenue ("Department") denied Taxpayers' refund because the return—and thus the refund claim—was filed outside of the three-year statute of limitations.

Taxpayers disagreed and submitted a protest to that effect. An administrative hearing was held and this final determination is based upon the documents submitted with the protest and the hearing. This Final Order Denying Refund results.

I. Individual Income Tax - Refund Statute of Limitations.

DISCUSSION

Taxpayers request a refund of an overpayment of income tax withheld during tax year 2015. The issue is whether the 2015 refund request was barred by the three-year statute of limitations in effect for the tax year at issue. Taxpayers explain that Wife takes care of a family member who is ill, and Husband recently had medical issues.

The statute of limitations for requesting a refund of excess income tax paid during the tax year at issue is found in IC § 6-8.1-9-1(a), which states:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (j) and (k), in order to obtain the refund, the person must file the claim with the department **within three (3) years** after the later of the following:

- (1) **The due date of the return.**
- (2) The date of payment. (**Emphasis added**).

The due date of individual income tax returns is "[t]he 15th day of the fourth month following the close of the taxable year." IC § 6-3-4-3(1). However, "[i]f any due date falls on a Saturday, a Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the act that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one of those holidays." IC §

6-8.1-6-2.

IC § 6-8.1-6-3(a) sets forth the date which a form is considered to be "filed":

A document, including a form, a return, a payment, or a writing of any type, which must be filed with the department by a prescribed date, is considered filed:

(1) **in cases where it is mailed through the United States mail, on the date displayed on the post office cancellation mark stamped on the document's wrapper;**

(2) in cases where it is delivered to the department in any manner other than through the United States mail, on the date on which the department physically receives the document; or

(3) in cases where a payment is made by an electronic fund transfer, on the date the taxpayer issues the payment order for the electronic fund transfer. **(Emphasis added).**

In accordance with IC § 6-3-4-3(1), the due date of Taxpayers' 2015 income tax return was April 15, 2016. Taxpayers filed their 2015 return on September 26, 2019, as evidenced by the postmark stamp on the envelope in which the return was mailed to the Department. Because the due date of the 2015 return is later than the date of the payment(s) of the tax, the three-year statute of limitations began to run on April 15, 2016, and ended on April 15, 2019. Therefore, the Department was correct when it denied the 2015 refund claim on the ground that the claim was submitted after the running of the three-year statute of limitations.

FINDING

Taxpayers' protest is respectfully denied.

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